

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Wang et al.

Application No. 10/823,931

Filed: April 14, 2004

Attorney Docket No: BYD-US2003-008

For: Compounds of Lithium Nickel Cobalt Metal Oxide and the Methods of Their Fabrication

RE: RENEWED PETITION UNDER 37 CFR 1.137(b)

Reply to the Dismissal of Petition to Revive Unintentional Abandonment

This is a renewed petition under 37 CFR 1.137(b) for the reconsideration of the dismissal decision on the petition filed April 20, 2009 under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application, where the Notice of Abandonment was mailed May 30, 2007.

The petition was dismissed for lacking a statement that the entire delay in filing the required reply from the due date for the reply until filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petitioner hereby submits the following statement supporting that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

I. Change in Department Structure at the Client Company.

Starting from about the second half of 2007, the applicant initiated planning to divide its legal department into a domestic legal department and a foreign legal department. Under the original legal department, there were three sections: contract, litigation, and intellectual property.

Accordingly, to the knowledge of the undersigned attorney, on or about January 2008, the legal department was divided into a domestic legal department and a foreign legal department. In stuffing the foreign legal department, it started with one person and it took a certain period of time to hire additional personnel to stuff its sections, including the intellectual property section. The foreign legal department received maybe one person from the existing legal department (out of over 100 personnel in the domestic legal department) and pretty much started from scratch. It took a certain amount of time for the foreign legal department to get up to speed.

During this period of time, there were not always clear directions. For example, during the first half of 2008, the petitioner discussed one filing and prosecution strategy and during the second half of 2008, with the new foreign legal department, the petitioner discussed a second filing and prosecution strategy. Another example, during the first half of 2008, the petitioner (a company based in China) originally planned to send two Chinese patent agents to this Firm for training purposes in understanding the case flow of their cases. A part of the intent was for the Chinese agents to handle the cases for their company and to learn about the patent process. This arrangement, including the length of stay, classes to

attend, hours for training, and living arrangements, was all arranged, but it was all cancelled around May-June 2008.

However, the petitioner was always understood as that it wanted to build a large U.S. patent portfolio and the entire delay in filing the required reply from the due date for the reply until filing of a grantable petition was unintentional.

II. Health-Related Issues

On or about July 2008, the undersigned attorney was diagnosed with diabetic and developed pinched nerves in both arms resulting from diabetic-related neuropathy (three fingers in each hand became very sensitive and have a constant tingling sensation). Two years prior to the diabetic diagnosis, the undersigned attorney was exhibiting classic signs of diabetes. For example, there was excessive drinking of non-alcoholic fluid (up to 2-4 liters per day), a constant feeling of tiredness (as if there was never enough sleep regardless of the number of hours slept), poor sleeping habit (waking up every 3 hours), and other symptoms. The undersigned attorney did not recognize the situation until mid-2008. He went to several various doctors for the various symptoms until he was properly diagnosed. The undersigned attorney was the managing attorney of his firm. His medical condition might have affected the response.

It is undersigned attorney's understanding that the petitioner did not intend to abandon the case during the entire time from the filing the required reply from the due date for the reply until filing of a grantable petition pursuant to 37 CFR 1.137(b). Petitioner also did not intend to abandon the case during that entire time. Should the Petitions Attorney have any further questions, please call the undersigned attorney. The Petitions Attorney is thanked for her assistance.

Respectfully submitted,
Venture Pacific Law, PC



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